

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY**

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|---------------------------------|---|---------------------|
| In the matter of |) | |
| |) | |
| Amendment of Section 73.202(b), |) | MM Docket No. _____ |
| Table of Allotments, |) | RM- _____ |
| FM Broadcast Stations |) | |
| KIOWA, KANSAS |) | |
| |) | |

DOCKET FILE COPY ORIGINAL

To: The Chief, Allocations Branch

PETITION FOR RULE MAKING

Kiowa Broadcasters, by its owner and pursuant to Section 1.401 and 73.3573 of the Commission's rules, hereby petitions the Commission to issue a Notice of Proposed Rule Making to amend Section 73.202(b), Table of Allotments, FM Broadcast Stations to Allot Channel 252C1 to Kiowa, Kansas. As discussed below, the allotment of Channel 252C1 would further the Commission's goal of providing the community with its first local service. Kiowa Broadcasters intends to promptly apply for Channel 252C1 if it is allotted to Kiowa and promptly build the station if its application is granted.

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BACKGROUND

1. Generally, Section 307(b) of the Communications Act, as amended, requires that channel allotments be made to communities as geographically identifiable population groupings. Kiowa Kansas easily qualifies as a community for allotment purposes. See Revision of FM Assignment Policies and Procedures, Second Report and Order ("FM Assignments"), BC Docket No. 80-130, reported at 90 FCC 2nd 88, 101 (1982) (noting that if a community is incorporated or listed in the U.S. Census, it qualifies as an independent community for allotment purposes).

2. Kiowa is an incorporated community of 1,160 residents and is located in Barber County, which has a total population of 5,814 according to the 1990 U.S. Census. Kiowa has its own town government, which includes a mayor, vice mayor, city council, a clerk, treasurer, auditor, city attorney, and building inspector. Kiowa has 11 volunteer fire personnel and 2 full-time and 2 part-time police officers. Kiowa has its own tax collection system, court system, water treatment system, electric system, and school system, which offers a complete primary and secondary education. Kiowa has dozens of retail, wholesale, and service-related businesses, including 2 Banks, a telephone company, a large grocery store, a hardware and auto supply store, body shops, beauty shops, gift shops, restaurants, convenience stores, a co-op elevator association, a real estate

company, motels, a nursing home, a funeral home, an attorney, electricians, plumbers, mechanics and building contractors. The Kiowa District Hospital has 24 beds and there are 2 medical doctors, 1 Osteopath and 1 community Dentist. The town has its own weekly newspaper and is served by 7 churches. Additionally, Kiowa has 2 major manufacturing employers and a aggressive Kiowa Industrial Development Co. Finally, Kiowa is situated along heavily traveled US 281 and U.S./Kansas highway 2, 14 and 8.

DISCUSSION

3. The Commission has long held that providing a community with its first local service is one of the top priorities of its FM allotment policy. Kiowa has no local FM service despite the fact that it clearly qualifies as a community for allotment purposes, as detailed above.

4. In addition to furthering the Commission's FM allotment priorities, the allotment of Channel 252C1 to Kiowa is consistent with the Commission's rules regarding spacing among FM broadcast stations. As demonstrated in the attached Engineering Statement, the allotment of Channel 252C1 to Kiowa would not create short-spacing problems with any of the relevant Kansas or Oklahoma radio stations.

5. Kiowa Broadcasters have demonstrated that: (1) Kiowa is a community for allotment purposes, (2) the allocation of Channel 252C1 to Kiowa would

further the Commission's long-standing goal of providing a first local FM service to a community; (3) the allotment would not violate the Commission's minimum-spacing requirements among FM broadcast stations. Finally, Kiowa Broadcasters pledges to promptly apply for Channel 252C1 if it is allotted to Kiowa and promptly build the station if its application is granted.

CONCLUSION

WHEREFORE, the premises considered, Kiowa Broadcasters respectfully requests the Commission to issue a Notice of Proposed Rule Making to amend Section 73.202(b), Table of allotments, FM Broadcast Stations, to allot Channel 252C1 to Kiowa, Kansas.

Respectfully submitted,

Kiowa Broadcasters

February 20th, 1996

kiowapp2.doc

By:



Leonard Johnson, III
218 Carriage Place Court
Decatur, Georgia 30033

SELLMEYER ENGINEERING
BROADCAST AND COMMUNICATIONS CONSULTING ENGINEERS
P. O. Box 356 McKinney, Texas 75069
MEMBER AFCCE
(214) 542-2056

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ENGINEERING STATEMENT IN SUPPORT OF

PETITION FOR RULEMAKING

TO AMEND SECTION 73.202(b) OF THE RULES

KIOWA, KANSAS

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FEBRUARY, 1996

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BROADCAST AND COMMUNICATIONS CONSULTING ENGINEERS
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ENGINEERING STATEMENT IN SUPPORT OF
PETITION FOR RULEMAKING
TO AMEND SECTION 73.202(b) OF THE RULES
KIOWA, KANSAS
FEBRUARY, 1996

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This Firm has been retained by Kiowa Broadcasters to prepare this Engineering Statement in support of its Petition for Rulemaking to add FM Broadcast Channel 252C1 to the Table of Allotments, Section 73.202(b) of the Rules at Kiowa, Kansas.

PROPOSED CHANNEL

A frequency search was conducted of all channels in the non-reserved portion of the FM band to determine a suitable channel for allotment at Kiowa, Kansas. Channel 252C1 will provide wide area service to Southern Kansas and North-Central Oklahoma from the Kiowa Reference point. A wide area is available within which to locate a suitable transmitter site. An arbitrary reference point was chosen at:

N.L.: 37° 00' 00"
W.L.: 98° 30' 00"

A spacing study at this location appears herein as Exhibit 1.

A map showing the area in which to locate the proposed transmitter site appears herein as Exhibit 2. Sufficient area is available in which to locate a tower of suitable height to fully realize the potential coverage of this proposed allotment.

PROPOSED CITY

Kiowa, Kansas is an incorporated town under the laws of Kansas, located in Barber County, Kansas. The community presently has no local broadcast service. The addition of Channel 252C1 will provide a first local service to this Kiowa and the surrounding area.

Under Commission Policy, the allotment is now available for use in this community. Kiowa Broadcasters hereby requests the Commission to amend Section 72.207 as follows:

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P. O. Box 356 McKinney, Texas 75069
MEMBER AFCCE
(214) 542-2056

PRESENT AND PROPOSED ALLOTMENTS

KIOWA, KANSAS

PRESENT

NONE

KIOWA, KANSAS

PROPOSED

252C1

INTENT TO APPLY FOR FACILITY

Kiowa Broadcasters will apply for and promptly construct facilities for Channel 252C1 at Cherokee, Kansas, if granted by the Federal Communications Commission.

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 P. O. Box 356 McKinney, Texas 75069
 MEMBER AFCCE
 (214) 542-2056

EXHIBIT 1
 FM SPACING STUDY
 KIOWA BROADCASTERS

02-05-1996

Sellmeyer Engineering

PAGE 1

FM Study for: KIOWA

FCC Database Date: 12/95

37-00-00

Location: KIOWA, OK

Channel Class: C1

98-30-00

Call City, State

Chan Class Freq kW Latitude Dist.

Required

Status Proponent

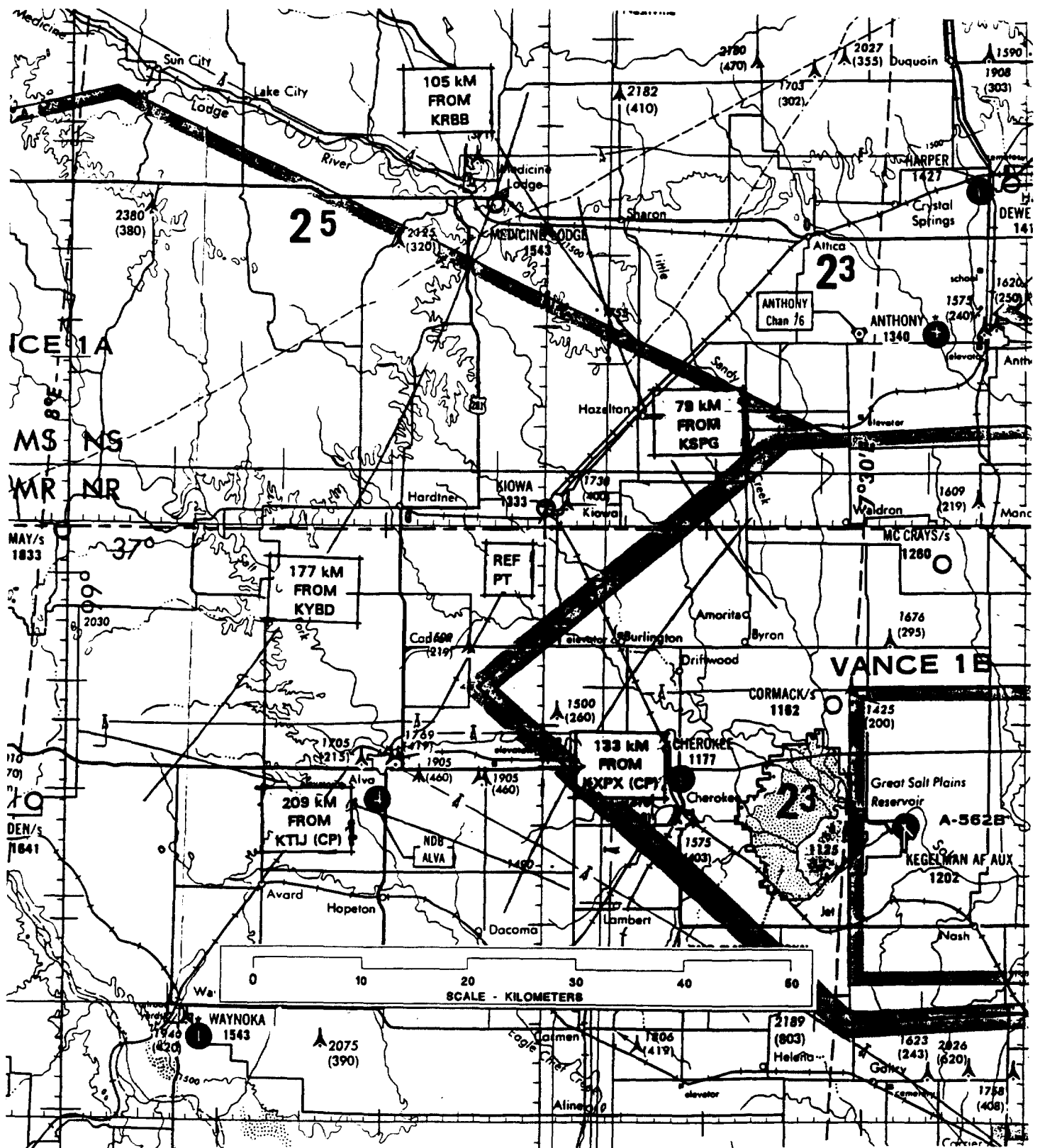
File Number HAAT Longitude Azm. Clear (km)

>>>>>>> Study For Channel 252 98.3 mHz <<<<<<<<

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|--------|-----------------------|---------------|------|------|-----------|-------|-------|-------|
| KSPG | CLEARWATER, KS | 254 C2 | 98.7 | 50.0 | 37-24-11 | 92.4 | 79 | |
| LIC | GARY L. VIOLET | BLH-950627KB | 150 | | 97-35-22 | 60.8 | +13.4 | CLOSE |
| KXPX | STILLWATER, OK | 251 A | 98.1 | 6.0 | 36-13-10 | 147.7 | 133 | |
| CP | PATRICK G. WALTERS | BPH-930715ME | 100 | | 97-09-47 | 125.5 | +14.7 | CLOSE |
| KYBD | COPELAND, KS | 251 C1 | 98.1 | 100. | 37-46-48 | 194.0 | 177 | |
| LIC | SOUND BROADCASTING, I | BLH-940504KD | 203 | | 100-27-36 | 297.1 | +17.0 | CLEAR |
| KRBB | WICHITA, KS | 250 C | 97.9 | 100. | 37-46-40 | 123.0 | 105 | |
| LIC | MARATHON BROADCASTING | BLH-890823KB | 303 | | 97-30-37 | 45.1 | +18.0 | CLEAR |
| KVOOFM | TULSA, OK | 253 C | 98.5 | 99. | 36-11-26 | 233.0 | 209 | |
| LIC | FIRST STUART CORPORAT | BLH-880420KC | 374 | | 96-05-50 | 112.0 | +24.0 | CLEAR |
| KTIJ | ELK CITY, OK | 253 C | 98.5 | 100. | 34-58-39 | 238.9 | 209 | |
| CP | W.H.A.M. FOR BETTER B | BMPH-870911IA | 332 | | 99-24-35 | 200.3 | +29.9 | CLEAR |

SELLMEYER ENGINEERING
 BROADCAST AND COMMUNICATIONS CONSULTING ENGINEERS
 P. O. Box 356 McKinney, Texas 75069
 MEMBER AFCEE
 (214) 542-2056

EXHIBIT 2
 MAP SHOWING AREA TO LOCATE TRANSMITTER SITE
 CHANNEL 252C1
 KIOWA, KANSAS



SELLMEYER ENGINEERING
BROADCAST AND COMMUNICATIONS CONSULTING ENGINEERS
P. O. Box 356 McKinney, Texas 75069
MEMBER AFCCE
(214) 542-2056

CERTIFICATION OF ENGINEER

I hereby state that:

I am President of Sellmeyer Engineering

The Firm of Sellmeyer Engineering has been retained by Kiowa Broadcasters to prepare this Engineering Exhibit

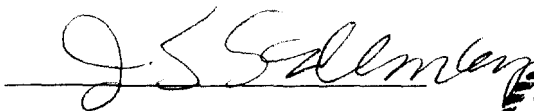
I am a graduate of Arizona State University with the degree of Bachelor of Science in Engineering

I am a Registered Professional Engineer in the States of Ohio and Texas

My qualifications as an Engineer are a matter of record with the Federal Communications Commission, having been previously accepted in applications of this type

This Engineering Exhibit was prepared by me personally or under my direct supervision, and

All facts stated herein are true and correct to the best of my knowledge and belief.



J. S. Sellmeyer, P. E.

February 5, 1996

P. O. Box 356
McKinney, Texas 75069
214-542-2056

